APPENDIX A

The opinion and judgment of the United States Court of Claims are unreported as yet and are printed as Appendix A to the petition for writ of certiorari in the case of David M. Goodman v. United States of America filed simultaneously with this petition.

APPENDIX B

CONSTITUTIONAL PROVISION, STATUTES AND REGULATIONS INVOLVED

Amendment 5 to the United States Constitution provides:

> No person shall be . . . deprived of life, liberty or property without due process of law . . .

Section 14 of the Veterans Preference Act of 1944, 58 Stat. 390, as amended, 61 Stat. 723, 5 U.S.C. § 863 (1959 Ed.), provides in pertinent part:

> No permanent or indefinite preference eligible, who has completed a probationary or trial period employed in the civil service, or in any establishment, agency, bureau, administration, project, or department, hereinbefore referred to shall be discharged, suspended for more than thirty days, furloughed without pay, reduced in rank or compensation, or debarred for future appointment except for such cause as will promote the efficiency of the service and for reasons given in writing, and the person whose discharge, suspension for more than thirty days, furlough without pay, or reduction in rank or compensation is sought shall have at least thirty days' advance written notice (except where there is reasonable cause to believe the employee to be guilty of a crime for which a sentence of imprisonment can be imposed), stating any and all reasons, specifically and in detail, for any such proposed action; such preference eligible shall be allowed a reasonable time for answering the same personally and in writing, and for furnishing affidavits in support of such answer, and shall have the right to appeal to the Civil Service Commission from an adverse decision of the administrative officer so acting, such appeal to be made in writing within a reasonable length of time after the date of receipt of notice of such adverse decision: "Provided, that such preference eligible shall have the right to make a personal appearance, or an appearance through a designated representative, in accordance with such reasonable

rules and regulations as may be issued by the Civil Service Commission; after investigation and consideration of the evidence submitted, The Civil Service Commission shall submit its findings and proper recommendations to the proper administrative officer and shall send copies of the same to the appellant or to his designated representative, and it shall be mandatory for such administrative officer to take such corrective action as the Commission finally recommends: * * *

Part 22 of the regulations of the Civil Service Commission, Appeals of Preference Eligibles Under the Veterans' Preference Act of 1944, 5 C.F.R. 22 (1958 Ed.) provides in pertinent part:

§ 22.401 *Investigation - (a) Scope.* Investigation will be made by the Commission to develop the facts and circumstances relative to the adverse decision.

(b) *Evidence.* Statements of witnesses shall be by affidavit, when practicable, and relative to the adverse decision.

(c) Evidence Available to Both Parties. Relevant representations shall be discussed with both parties to the appeal and shall be available for review by them. . . .

§ 22.402 *Right to a Hearing.* The employee shall have a right to a hearing before the office of the Commission undertaking initial adjudication of his case. This shall be the only opportunity for hearing as a matter of right. The employee shall be advised of his right to a hearing and shall express his desire in writing.

§ 22.603 *Introduction of Evidence.* Opportunity will be afforded for the introduction of evidence (including testimony and statements by the employee and his designated representative and witnesses and by representatives of the agency and its witnesses) and for the cross-examination of witnesses.

§ 22.604 *Rules of Evidence.* Rules of evidence will not be strictly applied during hearings, but the Commission representative in charge of the hearing shall use reasonable discretion to exclude irrelevant or unduly repetitious testimony.

§ 22.605 *Testimony Taken Under Oath; Record of Hearings.* The testimony at hearings shall be under oath. The office of the Commission handling the appeal shall determine how the hearing will be recorded. If the hearing is recorded verbatim, the reporter's transcript shall be made a part of the record of the proceeding and a copy shall be furnished to each party. When the hearing is not recorded verbatim, the presiding officer shall make a suitable summary of pertinent portions of the testimony. When agreed to in writing by all parties concerned, the summary shall constitute the report of the hearing and shall be made a part of the record. A copy shall be furnished to each party. Should the presiding officer and the parties fail to agree on the summary the parties shall be permitted to submit, in writing, exceptions to any part of the summary. Such exceptions shall be considered in connection with the making of the finding and recommendation.